

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 26541 of 2004(I)

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PETITIONER:

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T.S.ANANTHA NARAYANAN, S/O.LATE T.A.  
SIVARAMAKRISHNAN, G.FLAT, GROUND FLOOR,  
BEE VEE BLOCK, PALIYAM ROAD, KOCHI.

BY ADV. SRI.P.V.JYOTHI PRASAD

RESPONDENTS:

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1. THE STATE OF KERALA, REP. BY THE  
SECRETARY, COMMERCIAL TAXES, THIRUVANANTHAPURAM.
2. THE AGRL., INCOMETAX OFFICER II,  
VYTHIRI AT KALPETTA.
3. TAHSILDAR, REVENUE RECOVERY,  
VYTHIRI.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 19/12/2007 THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DEATH CERTIFICATE DATED 26.3.1994

EXT.P2 TRUE COPY OF THE LEGAL HEIRS CERTIFICATE ISSUED BY THE TAHSILDAR,  
VYTHIRI DATED 7.9.1994

EXT.P3 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1982-83

EXT.P4 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1983-84

EXT.P5 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1984-85

EXT.P6 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1985-86

EXT.P7 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1986-87

EXT.P8 TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1990-91

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

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W.P.C. NO. 26541 OF 2004  
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Dated this the 19th day of December, 2007

### JUDGMENT

Petitioner is one of the sons of late Sri. T.A. Sivaramakrishnan who was assessed to agricultural income tax for the assessment years 1982-83 to 1986-87 and 1990-91. The assessments were subject matter of appeals filed by the assessee. However, after disposal of appeals, wherein the appellate authority remanded the matter for fresh assessment, the assessee died on 6.3.1994. After the death of the assessee, the assessing officer issued notice to the wife of the assessee, who was represented by Chartered Accountant in the assessment proceedings. Petitioner's case is that petitioner and other legal heirs were not served with notice of assessment and therefore assessments are illegal and unenforceable. Counsel has relied on the decision of this Court reported in MATHEW V. AGRL. I.T. OFFICER, ALWAYE, 1973 K.L.T. 826 wherein this Court has held that all legal heirs have to be served notice of assessment under the AIT Act. I do not find any justification to interfere with assessments in this case for

more than one reason. In the first place, petitioner has no case that there is estrangement between his mother and himself so that he was kept in the dark by his mother about assessment proceedings that were going on. Even in this Writ Petition petitioner has not made the other legal heirs as respondents which obviously means that petitioner wants the other legal heirs to contest the matter in their own right. Above all on going through the assessments I find these orders are completed with representation of the legal heir of late assessee, that is none other than the wife of the deceased. She was represented by a professional hand. The objection raised to the preassessment notice was also considered and assessments are completed quite fairly and reasonably. Further the case pertains to 16 to 24 years back assessments and it will be impossible for the department and even for the petitioner to collect records and again go through the same process for assessment. It is also stated that substantial amount of tax assessed is paid by the legal heirs, and balance is only Rs. 17,000/- and interest thereon. If any balance is there, the same will be recovered from the legal heirs who have inherited property of defaulter. If balance amount is paid before

31.3.2008, there will be direction to respondents to waive interest for the period from the date of filing of this W.P. till date of payment.

W.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)  
Judge

